

Remarks/Arguments

Reconsideration of this application is requested, in view of the arguments below.

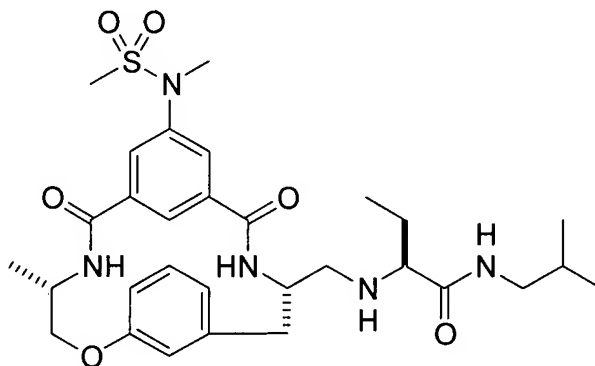
Claims 1-15 are pending.

In the Office Action mailed April 17, 2007, the Examiner required restriction between Group I, claims 1-13, drawn to compounds and compositions of formula (I), and Group II, claims 14 and 15, drawn to methods of using compounds of formula (I).

In response, applicants elect the Group I claims, without traverse.

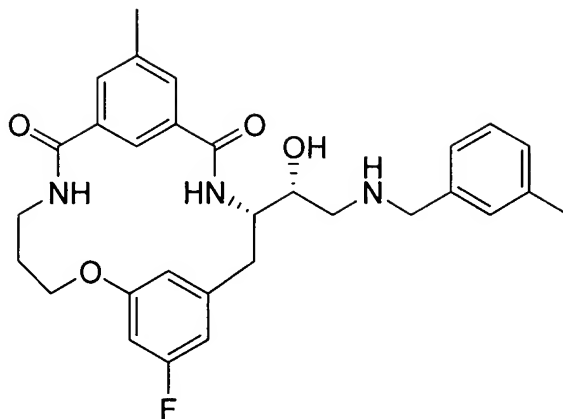
At page 3 of the office action, the Examiner also required election of a single species, in the event that no generic claim is found allowable.

In response, applicants elect the compound of Example 6 (at page 29 of the specification), which is depicted below:



Claims 1-6, 9, 10 and 12-15 read on the elected species, when R^2 is $R^4S(O)_pNR^5$, R^4 and R^5 are methyl and p is 2; R^1 is methyl; m is 1; and R^3 is $-CH(R^6)-NR^7R^9$, R^6 and R^9 are hydrogen, and R^7 is $CHR^5CONR^9R^{10}$, R^5 is ethyl, R^9 is hydrogen and R^{10} is isopropyl. Example 6 is the sixth species depicted in species claim 12.

At pages 2-3 of the Office Action, the Examiner cites compound 51 of WO 02/100399, which is depicted below:



Although the claims are not rejected over WO '399, the Examiner asserts as follows:

Although compound 51 does not share the same exact core structure of formula I, the modifications to the core are simple changes which can be accomplished with aromatic substitution chemistry. The hydrogen at the 3-position of the aromatic ring directly attached to the oxygen can be transformed into a fluorine atom by a fluorination reaction. The hydrogen in the 3-position in the other benzene ring can be replaced with a methyl group by a Friedels-Craft alkylation reaction.

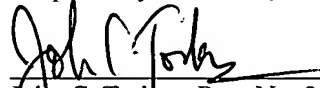
In response, applicants submit that there is a significant structural difference between Example 51 of WO '399 and the claimed compounds. In Example 51, there is a hydroxyethylamine structure pendant to the macrocycle. The hydroxyethylamine group is not present in the claimed compounds.

Applicants dispute the Examiner's statement that "modifications to the core are simple changes which can be accomplished with aromatic substitution chemistry." Even if the Examiner's statement were true, the Examiner has presented no motivation for one skilled in the art to modify compound 51 to make compounds similar to the claimed compounds.

In view of the foregoing, an early and favorable examination is earnestly solicited.

Respectfully submitted,

By


John C. Todaro, Reg. No. 36,036
Attorney for Applicants

MERCK & CO., Inc.
P.O. Box 2000
Rahway, New Jersey 07065
Tel.: (732) 594-0125

Date: May 11, 2007